



Public Employees for Environmental Responsibility

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July 9, 2018

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA REQUEST

To whom it may concern:

In January 2018, then-U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt told a Senate panel he believed a draft version of a health assessment EPA scientists compiled about the harms of formaldehyde vapor inhalation in day-to-day life as part of the EPA Integrated Risk Information System process had been completed but acknowledged it was “being held up.”

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning these recommendations. Specifically, we request the following:

1. Any versions of the aforementioned draft health assessment EPA, prepared between January 1, 2015 to present, regarding the possible carcinogenic or other health harms of day-to-day formaldehyde vapor inhalation;
2. Any communications to or from former Administrator Scott Pruitt, Deputy Administrator Andrew Wheeler, and/or the Office of the Administrator during Mr. Pruitt’s tenure up until present day to any party outside EPA concerning any draft versions of any health assessment the EPA has worked on regarding the harms of formaldehyde vapor inhalation.
3. Any records related to the January 24, 2018 meeting between EPA officials and the American Chemistry Council’s Formaldehyde Panel.
4. Any communications to or from Kimberly Wise White, currently on the EPA’s Science Advisory Board, regarding any health assessment of formaldehyde vapor inhalation, as well as any communications between Kimberly Wise White and the EPA during her time as the leader of the American Chemistry Council’s Formaldehyde Panel regarding same.

5. Any recommendations or requests to EPA from non-EPA employees or contractors about the release or delay of aforementioned health assessment by any outside party during the period from January 1, 2017 to the present day.

This request includes any records of communications, such as personal emails, text messages, and other messaging, whether contained on or outside the EPA server.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of, and communications to, EPA and its employees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

Mr. Pruitt has publicly stated to the Senate Environment and Public Works Committee that the assessment has finalized its conclusions and is ready for public review, but is being held up for unspecified reasons.

The requested material would help the public understand what dangers the EPA believes formaldehyde vapor inhalation poses to the public, specifically regarding leukemia and other cancers. The materials would also explain the delay in its release.

As these topics are the explicit focus of this request, the requested material is directly informative in relation to the request.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

Formaldehyde is one of the most commonly used chemicals in the country, from wood-based products in furniture to air emissions from major industry. The public at large encounters formaldehyde on a constant basis, and for the millions of Americans situated in a developed area potentially near industrial zones, concerns over formaldehyde vapors are very real. This disclosure would help this large swath of the public better understand the health risks and possible carcinogenic effects of formaldehyde vapor inhalation.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal workings of EPA. Moreover, the failure of EPA to progress this study along has already generated considerable media attention.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

The requested material would help promote the ideal of an open and transparent government by either confirming or dispelling any notions that the EPA has been suppressing the study because it has been “captured” by industry, such as by demonstrating what, if any, role Kimberly Wise White has played in delaying the public release of this health assessment. Therefore, it would “significantly” contribute to public understanding of government operations or activities by demonstrating the process by which such assessments are delayed and for what reasons.

The general public has a keen interest in whether EPA policy is unduly affected by industry interests, contrary to its goal of serving the public health. All of the above reflect the acute public concern as to whether and how effectively EPA performs its mission.

The nature of the information should shed also direct light on the quality, openness, and integrity of EPA policy development and leadership.

5. The extent to which disclosure will serve the requestor’s commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor’s commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency’s final response within 20 working days.

Cordially,

A handwritten signature in blue ink, appearing to read "Jeff Ruch", written in a cursive style.

Jeff Ruch
Executive Director